

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

CITY OF NORTH KANSAS CITY, MISSOURI, Appellant-Respondent  
v.

K.C. BEATON HOLDING COMPANY, LLC, ET AL.; Respondent-Appellants

PLATTE VALLEY BANK OF MISSOURI AND KEITH HICKLIN.  
Respondents

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DOCKET NUMBER WD76068 and WD76110

DATE: January 14, 2014

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Appeal From:

Circuit Court of Clay County, MO  
The Honorable Anthony Rex Gabbert, Judge

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Appellate Judges:

Division Four  
James Edward Welsh, C.J., Cynthia L. Martin, J., and Patrick Robb, Sp. J.

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Attorneys:

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Attorneys:

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Paul Henry, Clayton, MO	Counsel for Respondent-Appellant City of N. K.C.
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**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**CITY OF NORTH KANSAS CITY, MISSOURI, Appellant-Respondent, v. K.C. BEATON HOLDING COMPANY, LLC, ET AL., Respondent-Appellants; PLATTE VALLEY BANK OF MISSOURI AND KEITH HICKLIN, Respondents.**

**WD76068 and WD76110**

**Clay County**

**Before Division Four Judges: Welsh, C.J., Martin, J., and Robb, Sp. J.**

The City of North Kansas City (the City) seeks to condemn property owned by K.C. Beaton Holding Company, L.L.C., upon which Gilbertson Restaurants, L.L.C., operates a Burger King restaurant. (We refer to K.C. Beaton Holding Company, LLC, and Gilbertson Restaurants, LLC, collectively as K.C. Beaton.) The City filed an amended verified petition in condemnation against K.C. Beaton, and K.C. Beaton filed a motion to dismiss the petition. The circuit court granted K.C. Beaton's motion to dismiss finding that the City did not have the authority to condemn the Burger King property under section 88.497, RSMo 2000, for the "public purpose" of eliminating blight. The City appeals asserting that the circuit court erred in dismissing its amended verified petition in condemnation on the grounds that the City lacked legal authority to condemn the Burger King property under section 88.497. The City contends that section 88.497 granted the City the right to take property "for any other necessary public purposes" and that the elimination of blight is a public purpose. K.C. Beaton cross-appeals asserting that the circuit court erred in finding that the City's ordinance, which declared the Burger King property to be blighted, was valid. K.C. Beaton asserts that the City's ordinance violates article VI, section 21 of the Missouri Constitution, because the City did not follow the requirements of any statute when it made its determination that the area, which included the Burger King property, was blighted.

**Affirm and dismiss cross-appeal.**

**Division Four holds:**

(1) Given the specific constitutional directive in Article VI, section 21 of the Missouri Constitution, for a non-charter city like North Kansas City to utilize eminent domain to eliminate blighted areas, the Missouri Legislature must "enact laws" giving the non-charter city such authority. We find nothing within section 88.497 which expressly gives third class cities the power of eminent domain to eliminate blight, nor do we find anything within section 88.497 which necessarily implies that third class cities have such power. A third class city's general authority to condemn under section 88.497 "for any other necessary public purposes" is not sufficient to condemn for blight without a manifested intent by the legislature stating in express terms or by necessary implication that third class cities have such authority. The City, therefore, does not have the authority to condemn the Burger King property under section 88.497 for the purpose of eliminating blight. We affirm the circuit court's judgment dismissing the City's amended verified petition in condemnation against K.C. Beaton.

(2) The relief sought by K.C. Beaton was the dismissal of the City's amended verified petition in condemnation, and the circuit court granted such relief. K.C. Beaton, therefore, is not aggrieved by the circuit court's judgment and is not entitled to cross-appeal. We dismiss K.C. Beaton's cross-appeal.

Opinion by James Edward Welsh, Chief Judge

January 14, 2014

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**THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.**